

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

GARY KLUSTY,

Petitioner,

v.

**WARDEN, LONDON
CORRECTIONAL INSTITUTION,**

Respondent.

**Case No. 2:17-CV-62
Judge Algenon L. Marbley
Magistrate Judge Michael R. Merz**

ORDER

On May 3, 2019, the Magistrate Judge issued a *Report and Recommendation* (“R&R”) recommending that the petition for a writ of habeas corpus be dismissed. (ECF No. 12.) Although the parties were advised of the right to file objections to the R&R, and of the consequences of failing to do so, no objections have been filed. Therefore, the R&R (ECF No. 12) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

Pursuant to 28 U.S.C. § 2253(c)(1)(A) and Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court must determine whether to issue a certificate of appealability. Because Petitioner has waived the right to file an appeal by failing to file objections to the R&R, *see Thomas v. Arn*, 474 U.S. 140, 147 (1985); *United States v. Walters*, 638 F. 2d 947, 950 (6th Cir. 1981), the Court **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.

Date: May 23, 2019

s/ Algenon L. Marbley

**ALEGENON L. MARBLEY
UNITED STATES DISTRICT COURT JUDGE**